

Vanni, Mark

From: CampaignGuidance <SJElections@sanjoseca.gov>
Sent: Thursday, February 17, 2022 1:52 PM
To: Sonya Lu; CampaignGuidance
Subject: RE: Election Question re: Form 497 - 24 Hr Contribution report

Ms. Lu,

Your understanding of the Form 497 is generally correct. Council candidates who comply with the City's fundraising limit will not meet the threshold to report on the Form 497. Even so, if a Council candidate were to receive a contribution of \$1,000 or more, even though not permitted by the City's Municipal Code, is still required under State law to file a Form 497 if received within 90 days of an election.

The aggregation of contributions for the purpose of the Form 497 is per election not by calendar year. However, you may want to confer with the FPPC on this question. Although the City Attorney's Office may provide information on State law as it relates to San José's ethics and election laws, the FPPC is ultimately responsible for interpreting its rules. Relying on advice from the City Attorney's Office is not a defense in an inquiry on whether State law has been violated.

The FPPC provides advice on the requirements of the Political Reform Act through its Advice Line at 1-866-ASK-FPPC (1-866-275-3772) or advice@fppc.ca.gov.

Office of the City Attorney, Campaign Guidance
City of San José
200 East Santa Clara Street, 16th Floor Tower
San Jose, CA 95113
Office No: (408) 535-1900
Fax No: (408) 998-3131
SJElections@sanjoseca.gov
<http://www.sanjoseca.gov/index.aspx?NID=4796>

From: Sonya Lu <[REDACTED]>
Sent: Friday, January 28, 2022 6:59 PM
To: CampaignGuidance <SJElections@sanjoseca.gov>
Subject: Re: Election Question re: Form 497 - 24 Hr Contribution report

[External Email]

Hello,

Based on your response, a San Jose City Council election campaign will never need to file a form 479 with the City (or state) because the maximum a donor can contribute is \$700 max. AND the contribution amount will not need to be included in the required filings in the General election, correct?

Also, I did find a statement in the Form 460 instructions that indicate the donor's amount is aggregated by the calendar year. Does the City's campaign filing rules then override the State's?

Thanks for helping to clarify.

- Sonya

Donor Disclosure

Multipurpose organizations must disclose total contributions received in expenditures made in the reporting period. Donors to the multipurpose

1. **Donors Giving for Political Purposes – Itemize at \$100.** State the payments to the organization specifically for political purposes if payments may be used for political purposes in California and do not have a committee that all or a portion of their payments may be used for. *be itemized if their payments total \$100 or more in a calendar year.*
2. **LIFO Donors – Itemize at \$1,000.** Report donors using a “last in, first out” method. Donors described above do not cover the entire amount of the contribution. Report donors to the general fund in reverse chronological order beginning with the donor who made the political expenditure last. *a calendar year must be itemized.* Continue this method until a donor is identified to account for the contribution or independent expenditure.

Note: During the 90 days before an election, calendar year filers must report contributions within three business days following the expenditure. At all other times, report contributions within 90 days of the expenditure.

3. **Organization Itself.** If these two classes of contributors do not account for the entire contribution, the organization will identify itself as a contributor of the remaining amount.

When itemizing a contribution, report the name, street address, city, state, and zip code. If the contributor is employed, also include the occupation and the name of his or her employer. If the contributor is not employed, enter “none.” If the occupation and employer information cannot be obtained, enter an explanation of the organization’s attempts to obtain the information.

On Tue, Jan 18, 2022 at 3:21 PM CampaignGuidance <SJElections@sanjoseca.gov> wrote:

Sonya,

The 24 hour reporting requirement applies per election. Contributions made for the primary and contributions made for the run off are not aggregate for the purposes of 24 hour reporting.

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<http://www.sanjoseca.gov/index.aspx?NID=4796>

From: City Clerk <city.clerk@sanjoseca.gov>

Sent: Monday, January 17, 2022 12:45 PM

To: CampaignGuidance <SJElections@sanjoseca.gov>

Subject: Fw: Election Question re: Form 497 - 24 Hr Contribution report

From: Sonya Lu [REDACTED]

Sent: Sunday, January 16, 2022 1:54 AM

To: City Clerk <city.clerk@sanjoseca.gov>

Subject: Election Question re: Form 497 - 24 Hr Contribution report

[External Email]

Hello,

What I found:

24-Hour Contribution/Independent Expenditure Reporting Period: Contribution of \$1,000 or more in the aggregate from a single source must be reported within 24 hours of receipt. Non-monetary contribution of \$1,000 or more must be reported within 48 hours.

This does not apply to City Council candidates since \$700 is the aggregated limit per donor.

My question is in regards to IF the candidate is in the run-off.

Will the Form 460 reporting be a continuation of the Primary where donors' contributions from the Primary will be aggregated to any contributions made in the General election?

For example, if a donor made a \$700 contribution in the Primary election, and then \$700 again in the General, would I report \$1400, and therefore be required to file Form 497 within 24 hrs if the donation was made within 90 days of the election – or is it 10 days before the election?

Thank you for your guidance.

Sonya Lu

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